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John Albert Kembel

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309 2nd STREET
SUITE 8
LOS ALTOS, CA 94022

EXAMINER

BRUCKART, BENJAMIN R

ART UNIT

PAPER NUMBER

2446

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

admin@jasipc.com

<i>Office Action Summary</i>	Application No. 09/558,925	Applicant(s) KEMBEL ET AL.	
	Examiner BENJAMIN R. BRUCKART	Art Unit 2446	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-41,50, 52-55,60-68 and 70-77 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 31-41,50,52-55,60-68 and 70-77 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 26 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Claims 31-41, 50, 52-55, 60-68, 70-77 are pending in this Office Action.

Claims 31, 33, 39-41, 50, 62, 70, 76-66 are amended.

Claims 1-30, 42-49, 51, 56-59, 69 are cancelled.

The 35 U.S.C. 112, enablement rejection is withdrawn because applicant's amendment with the affidavit is persuasive.

Change of Address

The change of address received on 12/19/08 has been entered.

Terminal Disclaimer

The terminal disclaimer filed on December 21, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent 7,356,569 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Specification

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

See: Para 133; Page 14, para 24, 28-30; Page 15, para 68; Page 19, tags 13 and 23; para 51, para 162.

Applicant is asked to replace the browser executable code with the text words such as 'http colon slash slash www dot etc.' Using the words versus the code will obviate the objection.

The disclosure is objected to because of the following informalities: See Para 5 and 6 contain numbers that seem out of place (see the 25 and 30); and

The specification also refers to the NiM but later and without definition refers to a NUM. The examiner believes this to be a typographical error.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

On a side note, the application refers to doDots dot com for more information which seems to have no direct correlation to the invention being described in the specification.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The claims recite "obtaining, ... , using a home application which does not present to a user general web navigation controls,..". There is a lack of antecedent basis for the claim terminology'

Appropriate correction is required.

Response to Arguments

Applicant's arguments filed with respect to claims 70-75, in the amendment filed 12/19/08, have been fully considered but they are not persuasive. The reasons are set forth below.

Applicant's arguments filed with respect to claims 31-41, 50, 52-55, 60-68, 76-77, in the amendment filed 12/19/08, have been fully considered but are moot in view of new grounds of rejection. The reasons set forth below.

Applicant's invention as claimed:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 31-41, 50, 52-55, 60-68, 76-77 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Exemplary claim 31 recites "obtaining, ... , using a home application which does not present to a user general web navigation controls,..."

The specification does not support the limitations of 'an application which does not present to a user, general web navigation controls.'

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31-41, 50, 52-55, 60-68, 76-77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite "obtaining, ... , using a home application which does not present to a user general web navigation controls,...". There is a lack of antecedent basis for the claim terminology'

Regarding claim 33, the claim recites "the fist computing device." There is a lack of antecedent basis for this claim.

Claim 50 has two commas after first computing device.

Claim 61 recites the 'retrieving the data from a memory of the computing device.'

However, there is a first and second computing device. There is a lack of antecedent basis for this claim.

Claims 31-36; 39-41; 50, 52-55, 60-61; 62-65, 68; 76-77 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,838,906 by Doyle et al.

Regarding claims 31 and 76, a method (and processor readable storage as in claim 76), operating on a first computing device, for presenting Internet content to a user of said first computing device (Doyle: Figure 5), comprising:

- obtaining, from a second computing device different from said first computing device, using a home application which does not present to a user general web navigation controls first Internet content (Doyle: col. 9, lines 24-65; see the client app performing the steps), said content programmed in a format readable by a dedicated Web browser program (Doyle: col. 14, lines 43-67); and

- rendering the first Internet content in a frame having a format and controls which are specific to the first Internet content to produce a visual manifestation of the first Internet content on an output apparatus of the first computing device (Doyle: col. 14, lines 43-67), the frame and first Internet content rendered using said home application independently from a Web browser program (Doyle: col. 14, lines 43-67), and wherein the visual manifestation of the first Internet content is not a window of a dedicated Web browser program (Doyle: col. 14; x-window), and further wherein the first Internet content comprises at least a portion of a definition of the frame for the visual manifestation (Doyle: col. 13, lines 1-36).

Regarding claims 32 and 77, the method of claim 31 (and processor readable medium as in claim 76), wherein the step of obtaining the first Internet content further comprises the step of obtaining the complete definition of the frame for the visual manifestation (Doyle: col. 13 and 14).

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Regarding claim 33, the method of claim 31, further comprising:

obtaining, from a third computing device, a second Internet content that is programmed in a format readable by a dedicated Web browser program (Doyle: col. 4, lines 32-59; server A versus server B); and

rendering the second Internet content in a frame having a format and controls which are specific to the first Internet content to produce a visual manifestation of the second Internet content on the output apparatus of the *first* computing device (Doyle: col. 14, lines 43-67), the frame and first Internet content rendered using said home application (Doyle: col. 14; x-window), and wherein the visual manifestation of the second Internet content is not a window of a dedicated Web browser program (Doyle: col. 13, lines 1-36).

Regarding claim 34, the method of claim 33, wherein the step of obtaining the second Internet content further comprises the step of obtaining a definition of the frame for the visual manifestation of the second Internet content (Doyle: col. 13 and 14).

Regarding claims 35 and 36, Examiner takes Official Notice (see MPEP § 2144.03) that "content comprises XML code" and "definition of frames can comprise XML tags" in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also *In re Boon*, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, *In re Boon*, 169 USPQ 231, 234 states "as we held in *Ahlert*, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Regarding claims 39-41, the method of claim 31, wherein the rendering step comprises rendering the first Internet content to produce a visual manifestation of a calculator, media player, and visual manifestation of a means for accessing streaming media on an output apparatus of the first computing device, wherein the visual manifestation of the program is by a window of a dedicated Web browser program, and further wherein the first Internet content comprises a definition of a frame for the visual manifestation of the program (Doyle: col. 11, lines 40-51 teach calculator type functionality; col. 11, lines 7-16 teach media player functionality; and col. 9, lines 66- col. 10, line 15, lines 47- col 11, line 6).

Regarding claim 50, a method, operating on a first computing device, for presenting Internet content to a user of said first computing device (Doyle: Figure 5), comprising:

obtaining, from a second computing device different from said first computing device, using a home application which does not present to a user general web navigation controls, data that is programmed in a format readable by a dedicated Web browser program (Doyle: col. 9, lines 24-65; see the client app performing the steps; col. 14, lines 43-67); and

presenting a manifestation of the content data to the user in the user interface, the user interface and content data presented using said home application (Doyle: col. 14, lines 43-67), and wherein the manifestation is not a window of a dedicated Web browser program (Doyle: col. 13, lines 1-36).

Regarding claim 52, the method of claim 50, wherein the definition defines at least in part a functionality available to the user to control presentation of the content data (Doyle: col. 16, lines 9-27).

Regarding claim 53, the method of claim 50, wherein the data is provided by a content developer (Doyle: col. 11; the server is accessed for the data).

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Regarding claim 54, the method of claim 53, wherein the definition of the user interface and the functionality available to the user to control presentation of the content data is provided by the content developer (Doyle: col. 11; the server is accessed for the data).

Regarding claim 55, the method of claim 50, wherein the content data is provided by a first entity, and wherein the definition of the user interface and the functionality available to the user to control presentation of the content data is defined by a second entity (Doyle: col. 9, lines 24-col. 10, line 16).

Regarding claim 60, the method of claim 50, wherein the retrieving step comprises retrieving the data from the World Wide Web (Doyle: Fig. 5).

Regarding claim 61, the method of claim 50, wherein said retrieving step comprises retrieving the data from a memory of the computing device (Doyle: Fig. 5, col. 9, lines 1-23).

Regarding claim 62, a method, operating on a first computing device, for presenting Internet content to a user of said first computing device (Doyle: Figure 5), comprising:

- obtaining, from a second computing device different from said first computing device, using a home application which does not present to a user general web navigation controls, data that is programmed in a format readable by a dedicated Web browser program (Doyle: col. 9, lines 24-65; see the client app performing the steps; col. 14, lines 43-67);

- determining that the data comprises content data and a definition that defines at least in part a user interface within which the content data is presented and at least in part a functionality available to a user to control presentation of the content data (Doyle: col. 16, lines 9-27);

- based on at least in part the definition, displaying using said home application the user interface within which a visual manifestation of the content data is presented, wherein the user interface comprises a selectable option corresponding to the functionality available to the user, wherein the visual manifestation of the content data and the user interface is not a window of a dedicated Web browser program (Doyle: col. 14, lines 43-67; col. 13, lines 1-13); and

in response to a user input selecting the selectable option, altering the visual manifestation of the content data (Doyle: col. 16, lines 18-27).

Regarding claim 63, the method of claim 62, wherein the data is provided by a content developer (Doyle: col. 11; the server is accessed for the data).

Regarding claim 64, the method of claim 63, wherein the functionality available to the user to control presentation of the content data is defined by the content developer (Doyle: col. 11; the server is accessed for the data).

Regarding claim 65, the method of claim 62, wherein the content data is provided by a first entity, and wherein the definition of the user interface and the functionality available to the user to control presentation of the content data is defined by a second entity (Doyle: col. 9, lines 24-col. 10, line 16).

Regarding claim 68, the method of claim 62, wherein the retrieving step comprises retrieving the data from the World Wide Web (Doyle: Fig. 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 70-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe (USPN 6,006,252) in view of Ko et al. (USPN 6,292,185) (hereinafter Ko).

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Referring to claim 70, the Wolfe reference teaches a computer readable storage medium having stored thereon a software object for displaying and interacting with content data in a frame independent of a Web browser program (Wolfe: col. 1, lines 33-50; col. 8), comprising

- a reference to the content data, the content data deliverable over the Internet and viewable within a window of a dedicated Web browser program (Wolfe: col. 8, lines 30-65);

- a visual manifestation of the content data (Wolfe: col. 8, lines 42-48);

- instructions operable to cause said content data to be obtained and said frame to be rendered on a general purpose computer independent of a dedicated Web browser program (Wolfe: col. 8, lines 30-48).

The Wolfe reference fails to teach definition of a frame for visual manifestation.

However, the Ko reference teaches

- a frame definition, specific to the content data, for rendering said frame, said frame including a visual manifestation of the content data (Ko: Abstract; Figure 2; col. 5, lines 7-30).

It would have been obvious to one of ordinary skill in the art to combine the teaching of Ko with Wolfe in order to allow the supplemental content to tailor program 1535 window with respect to the advertisement, thereby allowing a user to further distinguish their advertisement from another, and allowing a supplemental content provider to customize the appearance of a graphical web page free from the constraints of the browser as supported by Ko (col. 1, lines 45-50).

Regarding claim 71, the computer-readable storage medium of claim 70, wherein said software object is stored on a first system, and further wherein said content data is stored on a second system separate from said first system (Wolfe: col. 4, lines 30-45).

Regarding claim 72, the computer-readable storage medium of claim 70, wherein said software object is stored on a first system, and further wherein said content data is provided to the software object at least in part from a processor associated with said first system (Wolfe: col. 3, lines 49-52).

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Regarding claim 73, the computer-readable storage medium of claim 70, wherein said software object is stored on a first system, and further wherein a portion of said frame definition includes a reference to code forming a part of a second software object, the second software object being stored on said first system (Wolfe: col. 3, lines 29-34; col. 7, lines 12-46).

Regarding claim 74, the computer-readable storage medium of claim 73, wherein said frame definition further comprises a definition of controls permitting a user to interact with said visual manifestation of the content data (Ko: Figure 2; col. 5, lines 7-30; col. 2, lines 28-59).

Regarding claim 75, the computer-readable storage medium of claim 74, wherein a portion of said definition of controls includes a reference to code forming a part of the second software object (Ko: Figure 2; col. 5, lines 7-30).

Claims 37, 38, and 66, 67 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 5,838,906 by Doyle et al in further view of U.S. Patent Number 6,292,185 by Ko.

Regarding claims 37, 38 and 66, the Doyle reference teaches the invention of claim 31.

The Doyle reference fails to teach javascript.

However, the Ko reference teaches content with javascript codes and the definition of the frame contains javascript tags (Ko: col. 7, lines 60-67) in order to allow a user to further distinguish their content from another, and allowing a supplemental content provider to customize the appearance of a graphical web page free from the constraints of the browser as supported by Ko (col. 1, lines 45-50).

It would have been obvious to one of ordinary skill in the art to combine the teaching of Ko with Doyle in order to allow a user to further distinguish their advertisement from another, and allowing a supplemental content provider to customize the appearance of a graphical web page free from the constraints of the browser as supported by Ko (col. 1, lines 45-50).

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Regarding claims 38, Examiner takes Official Notice (see MPEP § 2144.03) that "definition of frames can comprise javascript tags" in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Regarding claims 67, the Doyle reference teaches the invention of claim 62.

The Doyle reference fails to teach javascript.

However, the Ko reference teaches content with javascript codes and the definition of the frame contains javascript tags and buttons and controls (Ko: col. 7, lines 60-67; Figure 6 and 7) in order to allow a user to further distinguish their content from another, and allowing a supplemental content provider to customize the appearance of a graphical web page free from the constraints of the browser as supported by Ko (col. 1, lines 45-50).

It would have been obvious to one of ordinary skill in the art to combine the teaching of Ko with Doyle in order to allow a user to further distinguish their advertisement from another, and allowing a supplemental content provider to customize the appearance of a graphical web page free from the constraints of the browser as supported by Ko (col. 1, lines 45-50).

REMARKS

Applicant has argued the enablement with citations from the specification and an affidavit. There are claim amendments and arguments drawn to said amendments.

The examiner has addressed the new limitations with a new art and argued the unchanged limitations.

The Applicant Argues:

The Wolfe in view of Ko do not teach the invention as claimed.

In response, the examiner respectfully submits:

The examiner maintains the rejection. The Wolfe reference teaches the step of obtaining, using an application, formatted content. The Wolfe reference does that in col. 8, lines 31-48. The paragraph states the program sends the identity to the server and retrieves data and displays it. Wolfe teaches a second program that display data retrieves independent of the browser, most clearly explained in col. 8, where it states the "program 1535 of Fig. 13 displays the supplemental information rather than directing the browser to display that content."

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R. Bruckart whose telephone number is (571) 272-3982. The examiner can normally be reached on 9:00-5:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin R Bruckart
Examiner
Art Unit 2446

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